

59-6-102.1 Exemption certificate -- Penalties -- Limit on filing exemption certificate.

- (1) For a taxable year, a business entity may file an exemption certificate claiming an exemption from the deduction and withholding requirements of this chapter if:
 - (a) for that taxable year, the business entity is required to file a tax return with the commission;
 - (b) for that taxable year, the business entity expects to claim a refund on a tax return of at least 75% of the amount that would otherwise be required to be deducted and withheld under this chapter; and
 - (c) regardless of whether the business entity sells or otherwise disposes of the business entity's interest in the production of minerals, the business entity consents to the jurisdiction of the commission to enforce:
 - (i) an amount required to be deducted and withheld under this chapter; or
 - (ii) a penalty imposed under this chapter.
- (2) A business entity filing an exemption certificate in accordance with Subsection (1) shall file the exemption certificate:
 - (a) with the:
 - (i) producer; and
 - (ii) commission; and
 - (b) on a form prescribed by the commission.
- (3)
 - (a) In addition to any other penalty provided by law, a business entity is subject to the penalty described in Subsection (3)(b) if the business entity:
 - (i) files an exemption certificate in accordance with this section; and
 - (ii) does not file a tax return with the commission for the taxable year for which the business entity files the exemption certificate described in Subsection (3)(a)(i).
 - (b) For purposes of Subsection (3)(a), the penalty is 100% of the amount that the producer would have deducted and withheld under this chapter for the taxable year had the business entity not filed an exemption certificate under this section for that taxable year.
 - (c) The commission shall collect the penalty described in Subsection (3)(b).
- (4) If a business entity is subject to the penalty described in Subsection (3), the business entity may not file an exemption certificate under this section for five taxable years beginning with the taxable year that the business entity is subject to the penalty described in Subsection (3).
- (5) In addition to any other penalty provided by law, a business entity is subject to a penalty of 5% of the amount that a producer would otherwise be required to deduct and withhold under this chapter for the taxable year if:
 - (a) the business entity files an exemption certificate under this section for a taxable year; and
 - (b) had the business entity not filed the exemption certificate under this section for the taxable year, the business entity:
 - (i) would have been allowed to claim a refund on a tax return for the taxable year in an amount less than 75% of the amount required to be deducted and withheld under this chapter for the taxable year; or
 - (ii) would not have been allowed to claim a refundable tax credit under Section 59-6-102 for the taxable year.

Enacted by Chapter 255, 2008 General Session